

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SANJAY SOOKUL, *on behalf of himself and all  
others similarly situated*,

Plaintiff,

v.

QUALITY COMIX, LLC.,

Defendant.

Case No 1:23-cv-02397-JPO

**DEFENDANT'S  
ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S  
COMPLAINT**

Defendant Quality Comix, LLC. ("Quality Comix"), by and through counsel, hereby submit the following answers and affirmative defenses to Plaintiff Sanjay Sookul's ("Plaintiff") Complaint (Doc. 1). Quality Comix denies any and all allegations that are not specifically admitted herein.

1. Quality Comix states that Paragraph 1 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 1.

2. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 2. Whether Plaintiff is visually impaired and legally blind person is a legal conclusion to which no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 2.

3. Quality Comix states that Paragraph 3 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 3.

4. Quality Comix admits only that it owns the website <https://www.qualitycomix.com/>. Quality Comix lacks knowledge and information sufficient to

form a belief as to the truth of the remaining allegations in Paragraph 4. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 4.

5. Quality Comix admits only that it owns the website <https://www.qualitycomix.com/>, which facilitates the marketing and sale of Quality Comix's services. To the extent not expressly admitted, Quality Comix denies each and every remaining allegation in Paragraph 5.

6. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 6. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 6.

7. Quality Comix denies each and every allegation contained in Paragraph 7.

8. Quality Comix denies each and every allegation contained in Paragraph 8.

9. Quality Comix states that Paragraph 9 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies any and all allegations contained in Paragraph 9.

10. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegation in Paragraph 10 regarding Plaintiff's alleged visit to the website <https://www.qualitycomix.com/>. Quality Comix denies any and all remaining allegations in Paragraph 10.

11. Quality Comix denies any and all allegations in Paragraph 11 and further denies that Plaintiff is entitled to any recovery and/or relief set forth in Paragraph 11.

#### **JURISDICTION AND VENUE**

12. Paragraph 12 is a legal conclusion and/or statement of law for which no response is required. To the extent a response is required, Quality Comix denies that this Court has subject-

matter jurisdiction over this action. Quality Comix further denies that this Court has supplemental jurisdiction over this action.

13. Paragraph 13 is a legal conclusion and/or statement of law for which no response is required. To the extent a response is required, Quality Comix denies that venue is proper. Quality Comix denies each and every remaining allegation in Paragraph 13.

14. Quality Comix denies that it has a store in New York State and denies each and every remaining allegation in Paragraph 14.

### **PARTIES**

15. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 15.

16. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 16. Quality Comix further states that whether Plaintiff is legally blind and/or a member of a protected class is a legal conclusion for which no response is required.

17. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 17. Therefore, Quality Comix denies each and every allegation in Paragraph 17.

18. Quality Comix admits only that it is an Alabama Limited Liability Company. Its principal place of business is located at 7061 Halcyon Summit, Montgomery, AL. 36117. To the extent not admitted, Quality Comix denies each and every remaining allegation in Paragraph 18.

19. Quality Comix admits only that it owns the website <https://www.qualitycomix.com/>, which facilitates the marketing and sale of Quality Comix's services. Quality Comix further states that whether <https://www.qualitycomix.com/> is a place of

a public accommodation is a legal conclusion for which no response is required. To the extent not admitted, Quality Comix denies each and every remaining allegation in Paragraph 19.

### **NATURE OF THE CASE**

19. Quality Comix states that Paragraph 19<sup>1</sup> contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19; therefore, Quality Comix denies the same.

20. Quality Comix states that Paragraph 20 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20; therefore, Quality Comix denies the same.

21. Quality Comix states that Paragraph 21 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21; therefore, Quality Comix denies the same.

22. Quality Comix states that Paragraph 22 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22; therefore, Quality Comix denies the same.

23. Quality Comix states that Paragraph 23 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix

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<sup>1</sup> Defendant's Complaint incorrectly numbered this allegation as Paragraph 19, instead of Paragraph 20.

lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23; therefore, Quality Comix denies the same.

**FACTUAL ALLEGATIONS**

24. Quality Comix admits that it owns the website <https://www.qualitycomix.com/> and denies any and all remaining allegations in Paragraph 24.

25. Quality Comix admits only <https://www.qualitycomix.com/> facilitates the marketing and sale of Quality Comix's services. To the extent not admitted, Quality Comix denies each and every remaining allegation in Paragraph 25.

26. Quality Comix admits the allegations in Paragraph 26, except that the website does not offer the option to connect with Quality Comix's Pinterest account.

27. Quality Comix denies each and every allegation contained in Paragraph 27.

28. Quality Comix denies each and every allegation contained in Paragraph 28.

29. Quality Comix denies each and every allegation contained in Paragraph 29.

30. Quality Comix denies each and every allegation contained in Paragraph 30.

31. Quality Comix denies each and every allegation contained in Paragraph 31.

32. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegation in Paragraph 32 regarding Plaintiff's alleged visit to the website <https://www.qualitycomix.com/> and, therefore, Quality Comix denies the same and denies all remaining allegations in Paragraph 32.

33. Quality Comix denies each and every allegation contained in Paragraph 33.

34. Quality Comix denies each and every allegation contained in Paragraph 34.

35. Quality Comix denies each and every allegation contained in Paragraph 35.

36. Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegation in Paragraph 36 regarding Plaintiff's alleged visit to the website <https://www.qualitycomix.com/> and, therefore, Quality Comix denies the same and denies all remaining allegations in Paragraph 36.

37. Quality Comix states that Paragraph 37 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37; therefore, Quality Comix denies the same.

38. Quality Comix denies each and every allegation contained in Paragraph 38.

39. Quality Comix denies each and every allegation contained in Paragraph 39.

40. Quality Comix denies each and every allegation contained in Paragraph 40.

41. Quality Comix denies each and every allegation contained in Paragraph 41.

42. Paragraph 42 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 42.

#### **CLASS ACTION ALLEGATIONS**

43. Paragraph 43 contains legal conclusions for which no response is required. Further, Quality Comix states that Paragraph 43 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 43.

44. Paragraph 44 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 44 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 44.

45. Paragraph 44 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 43 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37; therefore, Quality Comix denies the same.

46. Quality Comix denies each and every allegation in Paragraph 46.

47. Paragraph 47 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 47 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 47.

48. Paragraph 48 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 48 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 48.

49. Paragraph 49 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 49 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 49.

50. Paragraph 50 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 50 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 50.

51. Paragraph 51 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 51 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 51.

52. Quality Comix states that Paragraph 52 contains no allegations directed to Quality Comix, and therefore, no response is required.

**FIRST CAUSE OF ACTION**

*(Violation of 42 U.S.C. §§ 12181 et seq. – Title III of the Americans with Disabilities Act)*

53. Quality Comix repeats and reasserts its responses to all the proceeding Paragraphs of the Complaint as if fully set forth within.

54. Paragraph 54 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 54 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 54.

55. Paragraph 55 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies any and all allegations contained in Paragraph 55.

56. Paragraph 56 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies any and all allegations contained in Paragraph 56.

57. Paragraph 57 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 57 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 57.

58. Paragraph 58 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 58 contains no allegations directed to Quality Comix, and



therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 58.

59. Paragraph 59 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 59 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 59.

60. Paragraph 60 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 60 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 60.

61. Quality Comix states that Paragraph 61 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61; therefore, Quality Comix denies the same.

62. Paragraph 62 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 62.

63. Quality Comix denies each and every allegation contained in Paragraph 63.

64. Paragraph 64 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 64.

65. Paragraph 65 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 65 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each

and every allegation in Paragraph 65 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

66. Paragraph 66 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 66 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

67. Paragraph 67 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 67 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 67 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

68. Quality Comix states that Paragraph 68 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 68 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

### **SECOND CAUSE OF ACTION**

*(Violation of New York State Human Rights Law, N.Y. Exec. Law Article 15 (Executive Law § 292 et seq.))*

69. Quality Comix repeats and reasserts its responses to all the proceeding Paragraphs of the Complaint as if fully set forth within.

70. Paragraph 70 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 70 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 70.

71. Paragraph 71 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 71.

72. Paragraph 72 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 72.

73. Paragraph 73 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 74.

74. Paragraph 74 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 74 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 74.

75. Paragraph 75 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 75 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 75.

76. Quality Comix States that Paragraph 76 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 76.

77. Paragraph 77 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 77.

78. Quality Comix denies each and every allegation contained in Paragraph 78.

79. Paragraph 79 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 79 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

80. Paragraph 80 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 80 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

81. Paragraph 81 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 81 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 81 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

82. Paragraph 82 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 82 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 82 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

83. Quality Comix states that Paragraph 83 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 83 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

### **THIRD CAUSE OF ACTION**

*(Violation of New York State Civil Rights Law, NY CLS Civ R, Article 4 (CLS Civ R § 40 et seq.))*

84. Quality Comix repeats and reasserts its responses to all the proceeding Paragraphs of the Complaint as if fully set forth within.

85. Paragraph 85 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 85 contains no allegations directed to Quality Comix, and

therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 85.

86. Paragraph 86 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 86 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 86.

87. Paragraph 87 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 87 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 87.

88. Paragraph 88 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 88.

89. Paragraph 89 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 89.

90. Paragraph 90 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 90.

91. Paragraph 91 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 91 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 91.

92. Paragraph 92 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 92 contains no allegations directed to Quality Comix, and

therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 92.

93. Paragraph 93 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 93 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 93.

94. Quality Comix denies each and every allegation contained in Paragraph 94.

95. Paragraph 95 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 95.

96. Quality Comix states that Paragraph 96 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 96 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

#### **FOURTH CAUSE OF ACTION**

*(Violation of New York City Human Rights Law, N.Y.C. Administrative Code § 8-102, et seq.)*

97. Quality Comix repeats and reasserts its responses to all the proceeding Paragraphs of the Complaint as if fully set forth within.

98. Paragraph 98 is a legal conclusion for which no response is required. Further, Quality Comix states that Paragraph 98 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation contained in Paragraph 98.

99. Paragraph 99 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 99.

100. Paragraph 100 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 100.

101. Paragraph 101 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 101.

102. Paragraph 102 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 102.

103. Quality Comix denies each and every allegation contained in Paragraph 103.

104. Paragraph 105 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 105.

105. Paragraph 105 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 105 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

106. Paragraph 106 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 106 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

107. Paragraph 107 is a legal conclusion for which no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 107 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

108. Quality Comix states that Paragraph 108 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 108 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

**FIFTH CAUSE OF ACTION**  
*(Declaratory Relief)*

109. Quality Comix repeats and reasserts its responses to all the proceeding Paragraphs of the Complaint as if fully set forth within.

110. Quality Comix denies each and every allegation contained in Paragraph 110.

111. Quality Comix states that Paragraph 112 contains no allegations directed to Quality Comix, and therefore, no response is required. To the extent a response is required, Quality Comix denies each and every allegation in Paragraph 112 and further denies that Plaintiff is entitled to any recovery and/or relief on his claims.

### **AFFIRMATIVE DEFENSES**

For its affirmative defenses to Plaintiff's Class Action Complaint, Quality Comix states as follows:

1. Quality Comix at all times acted in good faith and in compliance with the law.
2. The allegations contained in Plaintiff's Complaint fail to state a claim upon which relief can be granted.
3. The allegations contained in Plaintiff's Complaint fail to state a claim because the claims are improperly pled.
4. The allegations contained in Plaintiff's Complaint fail under the Americans with Disabilities Act ("ADA") because Plaintiff cannot establish that he was excluded from participation in Quality Comix's goods, services, facilities, or accommodations because of his disability.
5. The allegations contained in Plaintiff's Complaint fail under the ADA because Plaintiff cannot show that he was denied the full and equal enjoyment of Quality Comix's goods, services, facilities, or accommodations because of his disability by Quality Comix failing to make a requested reasonable modification that was necessary to accommodate Plaintiff's disability.



6. The allegations contained in Plaintiff's Complaint fail under the ADA because Plaintiff did not request a reasonable modification that was necessary to accommodate Plaintiff's disability.

7. The allegations contained in Plaintiff's Complaint fail under the ADA because its website is not a place or provider of public accommodation, resort, or amusement within the meaning of those laws.

8. The allegations contained in Plaintiff's Complaint fail under the ADA because current law does not require Quality Comix to implement policies and procedures demanded by Plaintiff.

9. The allegations contained in Plaintiff's Complaint fail under the ADA because they fail to demonstrate that the website is integrated with Quality Comix's physical locations.

10. The allegations contained in Plaintiff's Complaint fail under the ADA because implementing the injunctive relief sought would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations of the website, or would result in an undue burden.

11. Quality Comix provides reasonable alternatives for visually impaired individuals, through among other things, providing in-person and telephonic assistance to provide customers with information about and access to its products and services.

12. The allegations contained in Plaintiff's Complaint fail to state a claim for declaratory judgment because such relief will not terminate the controversy giving rise to the proceeding.

13. The allegations contained in Plaintiff's Complaint are barred by the ripeness doctrine because the U.S. Department of Justice has not issued regulations on accessibility standards for websites.

14. Quality Comix's right to due process would be violated by imposing liability on it for the failure to abide by alleged accessibility standards about which the government has not given Quality Comix fair notice.

15. The allegations contained in Plaintiff's Complaint fail to demonstrate that Plaintiff sought and Quality Comix failed to provide appropriate auxiliary aids and services.

16. The Complaint should be dismissed for lack of Article III standing.

17. Quality Comix denies that it has any liability or obligation for Plaintiff's alleged damages, and affirmatively states that Plaintiff's claims are barred, in whole or in part, for failure to join the proper, responsible part(ies) to this action and/or to bring or allege this action against the third part(ies).

18. Plaintiff's claims are barred, in whole or in part, because he did not suffer any cognizable injury or loss. Further, Plaintiff's alleged damages are *de minimis*, and/or are too speculative, and/or are too remote, and/or are impossible to prove and/or allocate. Plaintiff failed to mitigate his damages.

19. Plaintiff's claims are barred, in whole or in part, because any award to him would constitute unjust enrichment.

20. To the extent Plaintiff's claims for damages rely on acts of third part(ies) and/or Quality Comix's agents imputed to Quality Comix, the limitations inherent in general agency principles and corporate separateness prohibit recovery.

21. No act or omission of Quality Comix was malicious, willful, wanton, reckless or with a conscious disregard for the rights of others.

22. No act or omission of Quality Comix constituted willful or intentional discrimination.

23. No act or omission of Quality Comix constituted aiding or inciting a violation of the NYCHRL.

24. Plaintiff has failed to plead or establish entitlement to any award of attorneys' fees or costs.

25. Plaintiff has failed to demonstrate that all administrative remedies were properly exhausted.

26. Plaintiff's Complaint, to the extent that it seeks relief and/or judgment on behalf of persons who are not parties to this action, violates Quality Comix's rights to substantive and procedural due process and equal protection under the law as provided by the Fifth and Fourteenth Amendments of the United States Constitution and the New York Constitution.

27. The allegations contained in Plaintiff's Complaint inappropriately demand multiple recoveries for the same harm.

28. Because the allegations contained in Plaintiff's Complaint lack merit, Quality Comix should recover all costs and attorneys' fees incurred herein.

29. Quality Comix currently has insufficient knowledge or information from which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Quality Comix reserves the right to assert additional affirmative defenses in the event discovery indicates additional affirmative defenses would be appropriate.

WHEREFORE, having fully answered Plaintiff's Complaint, Quality Comix respectfully requests that Plaintiff's claims be dismissed, for its attorneys' fees and costs, and for such other and further relief as the Court deems just and proper.

Dated: July 10, 2023

/s/ Karla Del Pozo García

Karla Del Pozo García

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of July 2023, a true and accurate copy of the foregoing document was filed utilizing this Court's CM/ECF system, which serves notice upon the following counsel:

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